

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4476

**FISCAL
NOTE**

BY DELEGATE ELDRIDGE

[Introduced February 8, 2018; Referred
to the Committee on Health and Human Resources
then Finance.]

1 A BILL to amend and reenact §49-2-101 of the Code of West Virginia, 1931, as amended, and to
 2 amend and reenact §62-15A-2 of said code, all relating to permitting persons who
 3 voluntarily enroll in a drug rehabilitation program to be included in an existing pilot
 4 program; and authorizing the Department of Health and Human Resources to care for the
 5 children of those persons who voluntarily enroll in a drug rehabilitation program included
 6 in that pilot program.

Be it enacted by the Legislature of West Virginia:

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

PART I. GENERAL AUTHORITY AND DUTIES OF

THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES.

§49-2-101. Authorization and responsibility.

1 (a) The Department of Health and Human Resources is authorized to provide care,
 2 support and protective services for children who are handicapped by dependency, neglect, single
 3 parent status, mental or physical disability, or who for other reasons are in need of public service.
 4 The department is also authorized to accept children for care from their parent or parents,
 5 guardian, custodian or relatives and to accept the custody of children committed to its care by
 6 courts. The Department of Health and Human Resources or any county office of the department
 7 is also authorized and to accept temporary custody of children for care from any law-enforcement
 8 officer in an emergency situation.

9 (b) The Department of Health and Human Resources is responsible for the care of the
 10 infant child of an unmarried mother who has been committed to the custody of the department
 11 while the infant is placed in the same licensed child welfare agency as his or her mother. The
 12 department may provide care for those children in family homes meeting required standards, at
 13 board or otherwise, through a licensed child welfare agency, or in a state institution providing care

14 for dependent or neglected children. If practical, when placing any child in the care of a family or
15 a child welfare agency, the department shall select a family holding the same religious belief as
16 the parents or relatives of the child or a child welfare agency conducted under religious auspices
17 of the same belief as the parents or relatives.

18 (c) The Department of Health and Human Resources is authorized to accept children for
19 care from their parent or parents or guardians who are participating in a voluntary drug
20 rehabilitation program pursuant to §62-15A-2(a)(2) of this code.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 15A. ADDICTION TREATMENT PILOT PROGRAM.

§62-15A-2. The Department of Health and Human Resources Pilot Program.

1 (a) (1) The secretary of the department shall conduct a pilot program to provide addiction
2 treatment, including medication-assisted treatment, to persons who are offenders within the
3 criminal justice system, eligible to participate in a program, and selected under this section to be
4 participants in the pilot program because of their dependence on opioids.

5 (2) The secretary shall include in the pilot program authorized by subdivision (1) of this
6 subsection persons who voluntarily enroll themselves in a drug rehabilitation program. The
7 individuals who voluntarily enroll in a drug rehabilitation program may not be classified as
8 offenders within the criminal justice system, but all other appropriate provisions of this article apply
9 to those persons.

10 (b) In the case of the medication-assisted treatment provided under the pilot program, a
11 drug may be used only if it has been approved by the United States Food and Drug Administration
12 for use in the prevention of relapse to opioid dependence and in conjunction with psychosocial
13 support, provided as part of the pilot program, appropriate to patient needs.

14 (c) The department may invite the court, the authority and the division to participate in the
15 pilot program.

16 (d) The department may limit the number of participants.

17 (e) (1) If the court's Adult Drug Court Program is selected to participate, it shall select
18 persons who are participants in the Adult Drug Court Program, who have been clinically assessed
19 and diagnosed with opioid addiction. Participants must either be eligible for Medicaid, or eligible
20 for a state, federal or private grant or other funding sources that provides for the full payment of
21 the treatment necessary to participate in the pilot program. After being enrolled in the pilot
22 program, participants shall comply with all requirements of the Adult Drug Court Program.

23 (2) Treatment may be provided under this subsection only by a treatment provider who is
24 approved by the court or Adult Drug Court Program consistent with the policies and procedures
25 for adult drug courts developed by the court. In serving as a treatment provider, a treatment
26 services provider shall do all of the following:

27 (A) Provide treatment based on an integrated service delivery model that consists of the
28 coordination of care between a prescriber and the addiction services provider;

29 (B) Conduct any necessary additional professional, comprehensive substance abuse and
30 mental health diagnostic assessments of persons under consideration for selection as pilot
31 program participants to determine whether they would benefit from substance abuse treatment
32 and monitoring;

33 (C) Determine, based on the assessments described in paragraph (B), the treatment
34 needs of the participants served by the treatment provider;

35 (D) Develop, for the participants served by the treatment provider, individualized goals
36 and objectives;

37 (E) Provide access to the nonnarcotic, long-acting antagonist therapy included in the pilot
38 program's medication-assisted treatment; and

39 (F) Provide other types of therapies, including psychosocial therapies, for both substance
40 abuse and any disorders that are considered by the treatment provider to be cooccurring
41 disorders.

42 (f) (1) If the Division of Corrections is selected to participate, the division shall select
43 persons, within the custody of the Division of Corrections, who are determined to be at high risk
44 using the LS/CMI assessment criteria into the pilot program. Participants must either be eligible
45 for Medicaid, or eligible for a state, federal or private grant or other funding sources that provide
46 for the full payment of the treatment necessary to participate in the pilot program. After being
47 enrolled in the pilot program, a participant shall comply with all requirements of the treatment
48 program.

49 (2) A participant shall:

50 (A) Receive treatment based on an integrated service delivery model that consists of the
51 coordination of care between a prescriber and the addiction services provider;

52 (B) Submit to professional, comprehensive substance abuse and mental health diagnostic
53 assessments of persons under consideration for selection as pilot program participants to
54 determine whether they would benefit from substance abuse treatment and monitoring;

55 (C) Receive, based on the assessments described in paragraph (B), the treatment needs
56 of the participants served by the treatment provider;

57 (D) Submit to the treatment provider, individualized goals and objectives;

58 (E) Receive the nonnarcotic, long-acting antagonist therapy included in the pilot program's
59 medication-assisted treatment; and

60 (F) Participate in other types of therapies, including psychosocial therapies, for both
61 substance abuse and any disorders that are considered by the treatment provider to be co-
62 occurring disorders

63 (g) (1) If the Regional Jail and Correctional Facility Authority is selected to participate, the
64 authority shall select only persons who are serving a sentence for a felony or misdemeanor who
65 are determined to be at high risk using the LS/CMI assessment criteria for the pilot program.
66 Participants must either be eligible for Medicaid, or eligible for a state, federal, or private grant or
67 other funding source that provides for the full payment of the treatment necessary to participate

68 in the pilot program. After being enrolled in the pilot program, a participant shall comply with all
69 requirements of the treatment program.

70 (2) A participant shall:

71 (A) Receive treatment based on an integrated service delivery model that consists of the
72 coordination of care between a prescriber and the addiction services provider;

73 (B) Submit to professional, comprehensive substance abuse and mental health diagnostic
74 assessments of persons under consideration for selection as pilot program participants to
75 determine whether they would benefit from substance abuse treatment and monitoring;

76 (C) Receive, based on the assessments described in paragraph (B), the treatment needs
77 of the participants served by the treatment provider;

78 (D) Submit to the treatment provider, individualized goals and objectives;

79 (E) Receive the nonnarcotic, long-acting antagonist therapy included in the pilot program's
80 medication-assisted treatment; and

81 (F) Participate in other types of therapies, including psychosocial therapies, for both
82 substance abuse and any disorders that are considered by the treatment provider to be
83 cooccurring disorders.

84 (3) A participant who is incarcerated pursuant to a misdemeanor conviction or convictions
85 and successfully completes this treatment pilot program may, at the discretion of the authority,
86 receive up to five days off of his or her sentence.

87 (4) If a participant begins participation in the treatment pilot program while in the custody
88 of the Commissioner of Corrections, but is confined in a regional jail, and transferred to a
89 Division of Corrections facility before completing the pilot treatment program, the Division of
90 Corrections shall ensure that the participant's treatment under the program will continue and
91 that upon successful completion the participant shall receive credit off his or her sentence as
92 would have occurred had he or she remained in the authority facility until successful completion.

NOTE: This purpose of this bill is to permit persons who voluntarily enroll in drug rehabilitation to participate in a pilot program. The bill authorizes the Department of Health and Human Resources to care for the children of those persons who voluntarily enroll in drug rehabilitation and who are participating in the pilot program.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.